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*Attorneys for Plaintiff Stampin' Up!, Inc.*

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION**

STAMPIN' UP!, INC., a Utah corporation,

Plaintiff,

vs.

KOHL'S DEPARTMENT STORES, INC., a  
Delaware corporation,

Defendant.

Case No. \_\_\_\_\_

**COMPLAINT**

(Jury Trial Demanded)

Judge: \_\_\_\_\_

Plaintiff Stampin' Up!, Inc. ("Stampin' Up!") hereby complains against Defendant Kohl's Department Stores, Inc. ("Kohl's"), and alleges as follows:

**PARTIES, JURISDICTION & VENUE**

1. This is an action for copyright infringement pursuant to the Copyright Act of 1976, as amended, 17 U.S.C. §§ 101 *et seq.* This court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338. Venue is proper under 28 U.S.C. §§ 1391(b) and 1400(a).

2. Stampin' Up! is a corporation formed under the laws of the state of Utah, with a principal place of business in Riverton, Utah. Stampin' Up! creates and sells an exclusive line of

decorative stamp sets and accessories for greeting cards, scrapbooking, home décor, and other craft projects.

3. Kohl's is a corporation formed under the laws of the state of Delaware. Kohl's owns and operates retail department stores across the United States, including twelve stores in the State of Utah.

### **GENERAL ALLEGATIONS**

4. Stampin' Up! is the creator of an original punch design entitled "Two-Step Owl Extra-Large" (the "Owl Punch Design"), displayed at pages 200 and 201 of Stampin' Up!'s "Idea Book & Catalog 2010-2011 (the "Catalog"). The Owl Punch Design contains a substantial amount of material created by Stampin' Up!'s own skill, judgment and labor, and is copyrightable subject matter under the laws of the United States. A true and correct copy of pages 200-201 from the Catalog is attached hereto as Exhibit "A" and incorporated herein by reference.

5. The Catalog, along with the Owl Punch Design, was first published on or about June 1, 2010.

6. The United States Copyright Office issued to Stampin' Up! a certificate of registration No. VA-1-846-929, dated January 18, 2013, with respect to the Catalog. A true and correct copy of the certificate of registration is attached hereto as Exhibit "B" and incorporated herein by reference.

7. Stampin' Up! is the current owner of the entire right, title and interest in the Catalog and the Owl Punch Design, including the copyrights and copyright registrations in and to the same.

8. The Catalog and the material contained therein, including the Owl Punch Design, are marked, and at all relevant times herein have been marked, to reflect Stampin' Up!'s copyright ownership in conformity with the provisions of the Copyright Act of 1976, as amended. Since the date of first publication of the Catalog and the Owl Punch Design, Stampin' Up! has complied with all pertinent provisions of the Copyright Act of 1976, as amended.

9. The Catalog has been widely distributed to the public throughout the United States.

10. At some time after publication of the Catalog, Kohl's, without Stampin' Up!'s consent, began selling pajamas on which are printed designs and/or art work that are virtually identical to the Owl Punch Design. Specifically, Kohl's began selling pajamas under the brand "Sonoma Life + Style", product number NO43805P, that are decorated with an owl-and-heart design that is identical to the Owl Punch Design (the "Pajamas"). A photograph of the Pajamas is attached hereto as Exhibit "C" and incorporated by reference herein.

**FIRST CAUSE OF ACTION**  
(Copyright Infringement – 17 U.S.C. § 101 *et seq.*)

11. Stampin' Up! incorporates by reference paragraphs 1 through 10 above as if fully set forth herein.

12. Stampin' Up! owns the copyright in and to the Catalog and the works of art displayed therein, including the Owl Punch Design, and has properly registered said copyright with the United States Copyright Office.

13. At all relevant times herein, Kohl's had access to the Catalog and the Owl Punch Design displayed therein.

14. Kohl's infringed Stampin' Up!'s copyright by virtue of its unauthorized copying of the Owl Punch Design and use of said design on the Pajamas.

15. Upon information and belief, Kohl's infringement was willful within the meaning of 17 U.S.C. § 504.

16. Stampin' Up! has suffered damages and injuries as a result of Kohl's copyright infringement as alleged herein.

**PRAYER FOR RELIEF**

WHEREFORE, Stampin' Up! requests judgment against Kohl's as follows:

1. That Kohl's, its agents, servants and those in active concert and participation with it be enjoined during the pendency of this action and permanently thereafter from creating or selling articles of clothing incorporating art work or designs that are substantially similar or identical to the Owl Punch Design;
2. That Kohl's be required to account for and pay to Stampin' Up! any and all profits arising from the above-described unlawful actions;
3. That Kohl's be required to pay damages to Stampin' Up in an amount as yet undetermined to compensate Stampin' Up! for the damage Stampin' Up! has sustained in consequence of the unlawful actions as described herein, or statutory damages in lieu thereof;
4. That Kohl's be required to pay pre-judgment interest on any monetary award;
5. That Kohl's be required to pay Stampin' Up! punitive damages;
6. That Stampin' Up! be awarded its reasonable attorneys' fees and costs of suit; and
7. That Stampin' Up! be awarded such other and further relief as the Court deems proper.

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**JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38, Stampin' Up! demands a jury trial on all issues so triable.

DATED this 19<sup>th</sup> day of September, 2014.

JONES WALDO HOLBROOK & McDONOUGH

By:   
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## **EXHIBIT A**



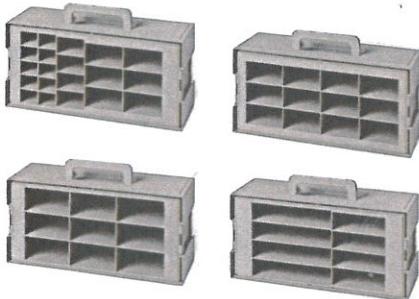
inspire.create.share.<sup>®</sup>



## 2010 · IDEA BOOK & CATALOG · 2011



Delight in the new sleek, space-saving punch style on all our punches. With a larger cutting surface and sleeker compact body, these punches offer greater cutting precision and leverage. And now you can store and carry all your new punches in our new handy punch caddy. And because many of our punches coordinate with our stamp images, we've outlined each stamp image with its corresponding punch. Punches are better than ever!



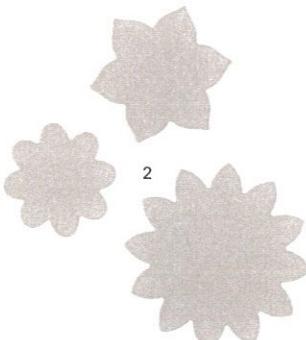
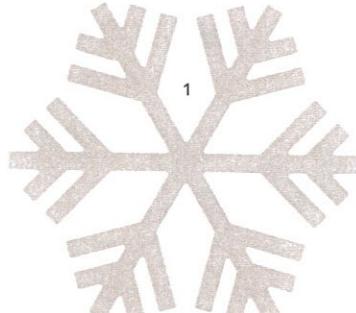
### Punch Caddy\*

Use to store all your new-body-style punches. Removable lid on each snaps to back of box when open for use or display. Designed to easily stack boxes together to save on space and for easy access.

121053	Punch Caddy S, M, L Stores 6 (L), 4 (M), and 10 (S) punches	<b>\$22.95</b>
121055	Punch Caddy L Stores 12 (L) punches	<b>\$22.95</b>
121056	Punch Caddy XL Stores 9 (XL) punches	<b>\$22.95</b>
121054	Punch Caddy Borders & Corners Stores 4 border and 4 corner punches	<b>\$22.95</b>

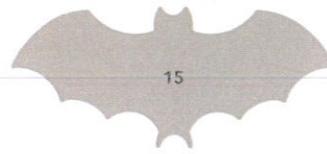
### Punches

- |            |                                   |                |
|------------|-----------------------------------|----------------|
| 1. 119852  | Snowflake Extra-Large             | <b>\$16.95</b> |
| 2. 119858  | Boho Blossoms Extra-Large         | <b>\$16.95</b> |
| 3. 118074  | Two-Step Owl Extra-Large          | <b>\$16.95</b> |
| 4. 118073  | Fancy Flower Extra-Large          | <b>\$16.95</b> |
| 5. 119880  | 5-Petal Flower Extra-Large        | <b>\$16.95</b> |
| 6. 119275  | Dotted Scallop Ribbon Border      | <b>\$15.95</b> |
| 7. 118072  | Pinking Hearts Corner             | <b>\$9.95</b>  |
| 8. 117649  | Pinking Hearts Border             | <b>\$15.95</b> |
| 9. 118870  | Scallop Trim Corner               | <b>\$9.95</b>  |
| 10. 118402 | Scallop Trim Border               | <b>\$15.95</b> |
| 11. 119882 | Scallop Edge Border               | <b>\$15.95</b> |
| 12. 119853 | Eyelet Border                     | <b>\$15.95</b> |
| 13. 119872 | Spiral Border                     | <b>\$15.95</b> |
| 14. 118309 | Itty Bitty Shapes Punch Pack      | <b>\$16.95</b> |
| 15. 119279 | Bitty Bat Large                   | <b>\$15.95</b> |
| 16. 119854 | 1-3/4" Scallop Circle Extra-Large | <b>\$16.95</b> |
| 17. 118874 | 2-3/8" Scallop Circle Extra-Large | <b>\$16.95</b> |
| 18. 119884 | Scallop Square Extra-Large        | <b>\$16.95</b> |
| 19. 119856 | Scallop Oval Extra-Large          | <b>\$16.95</b> |
| 20. 119871 | 3/16" Corner Small                | <b>\$6.95</b>  |
| 21. 119867 | Ticket Corner Small               | <b>\$6.95</b>  |

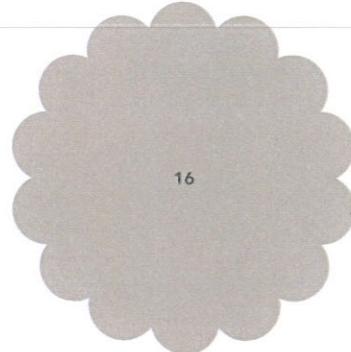




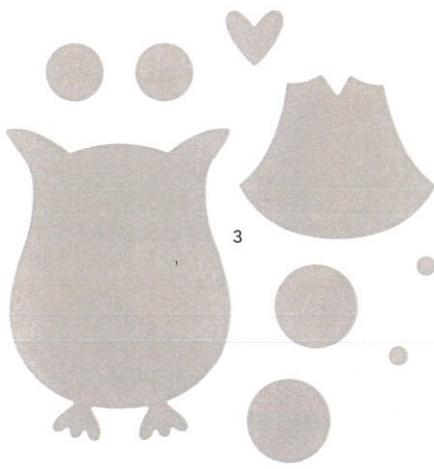
To create a Scallop Trim rectangle on this card, we used the Scallop Trim Corner and Scallop Trim Border punches together to make a uniform, seamless look. What punches could you use together?



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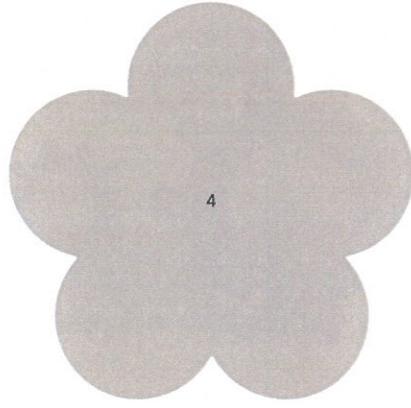


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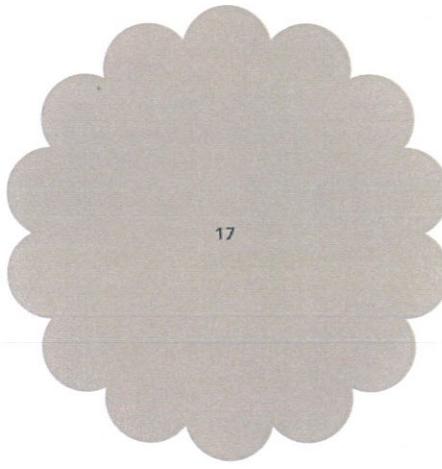
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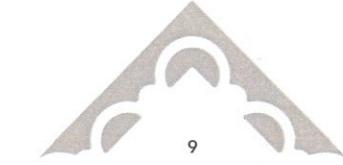
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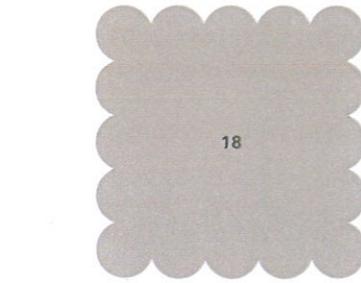
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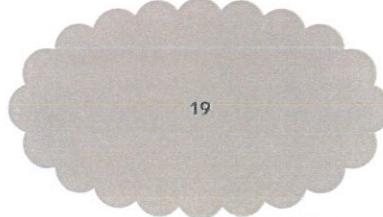
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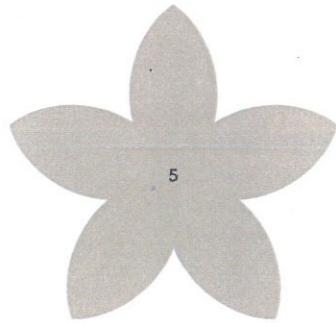
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## **EXHIBIT B**

# Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Maria A. Pallante*

Register of Copyrights, United States of America

Registration Number  
VA 1-846-929

Effective date of  
registration:  
January 18, 2013

## Title

Title of Work: Idea Book & Catalog 2010-2011

## Completion/Publication

Year of Completion: 2010

Date of 1st Publication: June 1, 2010

Nation of 1st Publication: United States

## Author

Author: Stampin' Up! Inc.

Author Created: text, 2-D artwork

Work made for hire: Yes

Citizen of: United States

Domiciled in: United States

## Copyright claimant

Copyright Claimant: Stampin' Up! Inc.

12907 South 3600 West, Riverton, UT, 84065, United States

## Limitation of copyright claim

Material excluded from this claim: text, 2-D artwork

Previous registration and year: VA 1-687-031 2009

New material included in claim: text, photograph(s), 2-D artwork

## Certification

Name: Brett D. Ekins

Date: June 17, 2010

Applicant's Tracking Number: 08090.0001

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Correspondence: Yes

## **EXHIBIT C**



